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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/641,795	08/18/2000	James M. Zavislan	ML-0459C	6913

24902 7590 08/21/2002

KENNETH J. LUKACHER
3136 WINTON ROAD SOUTH, SUITE 204
ROCHESTER, NY 14623

EXAMINER

PHAM, HOA Q

ART UNIT	PAPER NUMBER
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2877

DATE MAILED: 08/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/641,795

Applicant(s)

ZAVISLAN, JAMES M.

Examiner

Hoa Q. Pham

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 22 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 30-33 and 35-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 39-42 is/are allowed.
- 6) ☐ Claim(s) 30-33 and 35-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 30-33 and 35-38 are rejected under 35 U.S.C. 102(b) as being fully anticipated by Koester (4,241,257).

Regarding claims 30, 32-33, 35, and 37-38; Koester teaches that the scanning microscopic apparatus (figures 1 and 4) can be modified to a differential interference microscopy by inserting a polarizer and a Wollaston prism between the mirror M1 and objective lens L3 (column 11 lines 31-34). Since the polarizer and Wollaston prism are located between the objective lens L3 and Mirror M1, it is inherent that the beams are overlapping in the medium outside the imaged section.

Regarding claims 31 and 36, Koester uses a Wollaston prism which is the same as the present invention used, thus the beams are incident the medium at spots spaced in at least one direction along the image plane (20).

Allowable Subject Matter

3. Claims 39-42 are allowed.

Response to Arguments

4. Applicant's arguments filed 7/22/02 have been fully considered but they are not persuasive.

Applicant's remarks, page 2, argue that **Koester does not teach that the illumination and detection overlap in the medium**. As understood by the examiner, the present invention teaches that the light beam (56) is splitted **into two incident beams A and B and overlap in the medium** outside the focal plane after passed through the Wollaston prism (42), quarter wave plate (44) and the objective lens (30) as seen from figures 2 and 4 (or last paragraph of page 7) of the present invention. Thus, nothing to do with the overlapping between the incident beam and reflected beam as argued by applicant. Furthermore, Koester teaches an optic system, which same as the present invention, in that the polarizer and Wollaston prism are inserted between the mirror M1 and the objective lens (L3) (see figure 1 and column 11 lines 31-34). Thus, the incident beams must be overlap in the medium.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

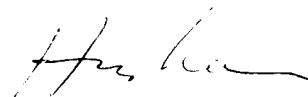
Art Unit: 2877

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa Q. Pham whose telephone number is (703) 308-4808. The examiner can normally be reached on 6:30 AM to 5 PM Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on (703) 308-4881. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Hoa Q. Pham
Primary Examiner
Art Unit 2877

Pham/hp
August 15, 2002